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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,659	08/05/2002	James Clifton Potter	200-1165	5314

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FORD GLOBAL TECHNOLOGIES, LLC.  
SUITE 600 - PARKLANE TOWERS EAST  
ONE PARKLANE BLVD.  
DEARBORN, MI 48126

EXAMINER

RESTIFO, JEFFREY J

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 10/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/064,659

Applicant(s)

POTTER, JAMES CLIFTON

Examiner

Jeffrey J. Restifo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Information Disclosure Statement***

1. The IDS filed 8/5/02 has been considered by the examiner.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5-8 and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 5 recites the limitation "said amount of rolling resistance" in line 1. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 5 recites the limitation "said at least one tire" in line 2. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 5 recites the limitation "said surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Examiner note: For examining purposes, the examiner has assumed claim 5 to be dependent upon claim 4, which introduces these limitations.

7. Claim 17 recites the limitation "the torque" in line 3. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 17 recites the limitation "said hybrid vehicle" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuyama (US 4,633,216 A).

Tsuyama discloses a vehicle 8 including an apparatus 2 for displaying a maximum sustainable speed of said vehicle, said apparatus including a controller 30, which receives signals and calculates said speed and indicates it on a display portion 15, a pulse wheel sensor 5 for measuring acceleration, and wherein said apparatus will display a second maximum speed if the newly measured speed differs by a predetermined amount, as shown in figures 1-3 and 5A-5C, and recited in col. 2, lines 43-65.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claims 1-3 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuyama (US 4,633,216 A).

With respect to claims 1-3, Tsuyama discloses a vehicle 8 including an apparatus 2 for displaying a maximum sustainable speed of said vehicle, said apparatus including a controller 30, which receives signals and calculates said speed and indicates it on a display portion 15, a pulse wheel sensor 5 for measuring acceleration, and wherein said apparatus will display a second maximum speed if the newly measured speed differs by a predetermined amount, as shown in figures 1-3 and 5A-5C, and recited in col. 2, lines 43-65. Tsuyama does not disclose the apparatus as being used with a hybrid vehicle. Since this is an intended use, the use of the apparatus with a hybrid vehicle has been given little patentable weight, and further, it would have been obvious to one having ordinary skill in the art at the time of the invention to have applied the speed measuring apparatus of Tsuyama to a hybrid vehicle in order to calculate its maximum speed, acceleration, etc.

With respect to claims 14-16, the method recited in these claims is inherently performed in the use of the speed sensing apparatus of Tsuyama, described above.

13. Claims 4-8 and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuyama, as applied to claim 1 above, and further in view of Morrison (US 5,992,553 A).

With respect to claims 4-8, Tsuyama does not disclose the speed calculations as taking into account slope, friction, drag, and inertia measurements. Morrison does disclose a speed calculating device 46 that takes into account rolling friction of the tires

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22, aerodynamic drag, inclination or slope, and inertial force which depends upon the weight of the rider, as recited in col. 1, lines 50-55. It would have been obvious to one having ordinary skill in the art at the time of the invention to have the speed sensing apparatus of Tsuyama to take into account the parameters of slope, drag, friction, and inertia, as taught by Morrison, in order to achieve a more precise speed measurement of the vehicle.

With respect to claims 17-20, the method recited in these claims is inherently performed in the use of the speed sensing apparatus of Tsuyama and Morrison, described above.

### ***Conclusion***

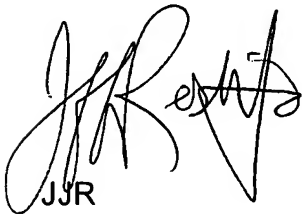
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thomas, Arikawa et al., Shimizu, Westberg et al., Matsuno et al., Thomas et al., and Kabatek et al. all disclose vehicle speed sensors of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (703) 305-0579. The examiner can normally be reached on M-F (10:00-6:00), alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read 'JJR Restifo'. The signature is stylized with large, sweeping loops. Below the signature, the initials 'JJR' are printed in a small, sans-serif font.

Jeffrey J. Restifo  
Examiner  
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